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***Human Rights and Emerging Actors:
Indigenous Peoples and Peasants
Redefining the Issues***

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**Human Rights and Emerging Actors:
Indigenous Peoples and Peasants Redefining the Issues**
by Curtis Kline

Introduction

The historical development of human rights can be examined through a number of lenses. Human rights have been studied throughout history as intellectual shifts in political theory in relation to historical change. Some from a more strictly legal sense have looked at human rights as the development of legal norms, and others as the development and defining of commonly held morals (Ishay 2004). All of these have contributed to further the understanding of the promotion of human rights around the world.

The history of human rights can also be viewed as a history of new actors engaging with human rights, forcing a renegotiation of what human rights constitute and who holds them. In this paper, the development of human rights will be focused in the identities of those that have joined in their promotion. Human rights holding identities have expanded throughout the development of human rights, compelling a re-conceptualization of what makes a human rights claim. When new identities become involved in promoting, claiming, and engaging in international human rights, the conceptualization of many human rights are re-opened for negotiation, expanded on, altered, challenged, or strengthened. Those holding the new identity, as human rights actors, then articulate what is needed to live a life of dignity and to reach their full human potential.

After a discussion on the ‘politics of identity’, laying the theoretical framework for the paper, the three ‘generations’ of human rights development as well as women’s human rights will be examined focusing on the identities that prompted and promoted the expansion of rights conceptualizations. Then, in order to better understand this process of expanding identities as human rights actors and the new manners of conceptualizing human rights they bring on, this paper will look in-depth, at the two recently emerging identities of Indigenous and of peasant.

First will be the identity of Indigenous Peoples. The connection between human rights issues and environmental concerns has been clearly articulated by the global Indigenous Peoples’ movement, expanding a peoples’ right not only to a clean and healthy environment but also to have control over activities within that natural environment, based on a differing vision of nature. This example will be looked at through the Whanganui River in New Zealand and the legal personhood it has been granted in order to protect the rights of the Indigenous Maori. The right of self-determination will also be observed regarding the expanding conceptualization of self-determination to go beyond secession or independent statehood, and belonging more to a spectrum than as a dichotomy. This will be examined in the Indigenous Ogoni and their struggle for autonomy within the post-colonial state of Nigeria.

The second and more recently emerging identity becoming a human rights actor is that of the peasant. This identity has forcefully re-opened debates about issues constituting human rights and group sovereignty. The right to food is a main focus for the international peasant movement. This paper will look into this redefinition of a human right through the seed sovereignty movement in India, led by the organization Navdanya. The issue of land grabbing and a right to agrarian reform, as pushing a renegotiation of the land rights of food producers, will also be viewed through the Landless Workers Movement (MST in Portuguese) from Brazil.

The example identities of Indigenous and of peasant do not represent the universal experience of emerging identities as human rights actors. However, in examining how these identities have engaged in human rights development we may gain a more clear and complex understanding of the role emerging identities have in forcing renegotiations, redefinitions, and re-conceptualizations of the things that constitute human rights issues.

These two emerging actors in human rights have both redefined issues that constitute human rights issues and have shaped a discourse regarding the right of self-determination. This paper will look at the emergence of both identities to analyze the expansion of human rights actors and how bringing new identities into human rights engagement has re-opened the negotiation on ways to conceptualize human rights issues. The case studies will be of grassroots examples of the redefinition of the human rights, with the hope of expanding the understanding of the historical development of human rights as well as current processes occurring today.

Politics of Identity

Strengthened since the end of the Cold War, a new kind of engagement with human rights has emerged: an engagement established on the specificities of social identity. This engagement is associated with a vast number of movements, groups and cultural communities from around the world, all of which are committed to identity-based politics. A growing amount of new kinds of social mobilizations based on various collective identities which were previously hidden, suppressed, or neglected have engaged in the promotion as well as the renegotiation of human rights conceptualizations.

This development, commonly referred to as either 'identity politics' or 'the politics of identity', reveals a shift away from ideological contest. The focus is instead placed on a culture in which citizens come together under the banners of encompassing groups with their own collective identities and distinguishing cultures. Members of these identity-based groups build identities set apart from the larger society, based on the sharing of common characteristics within the group (Kenny 2004).

Emerging identities engaging in human rights promotion have been identities with a shared experience of suppression and marginalization. Identities of women, laborer, racial identities, and as will be seen in this paper, of Indigenous and of peasant, have engaged in a politics of identity in order to renegotiate human rights conceptualizations. The definitions of human rights issues are renegotiated to confront their suppression and marginalization.

Every society privileges some identities and rejects and enforces burdens on others. Those identities rejected by dominant society reasonably protest the dominant culture demeans their identity, forces them to conform to intolerable rules, oppresses and humiliates them, traps them into a restricted and alien mode of being and inflicts varying degrees of psychic and other wrongs on them, because of their 'non-dominant' identity (Parekh 2008).

The collective self-consciousness and sense of solidarity built from identifying and articulating these commonalities of suppression and marginalization has given group identities such as Indigenous Peoples and peasants a historical and cultural depth as well as it reinforces their sense of subject-hood. The political engagement undertaken from a newly emerged political identity then inherently challenges the established ideas and boundaries regarding conceptualizations of human rights (Kenny 2004).

Establishment of Human Rights Identities

The intertwined dimensions of a human being's identity encompass what Parekh calls the personal identity, the social identity and the human identity. The *personal identity* focuses on the uniqueness of each individual human being. Every human has a different body, biographical details, and their own sense of self. They have also been shaped by countless influences; family, school, culture, class, religion, as well as their own personal experiences. This identity is not a possession, it is not static. A person's identity is fluid, it is constantly negotiated and renegotiated.

The *social identity* looks at human beings as socially embedded. All humans are members of different ethnic, religious, cultural, occupational, national and other groups. Humans are related to others in countless formal and informal ways. The ranges of social identifications are seemingly limitless and can be based on almost any human characteristic, trait, practice, relationship and belief. Some of these features become socially significant and are used to classify individuals. For example, being a woman is not only biological, but also a socially significant category, with expectations placed from the outside onto that identity.

Parekh's third dimension, expressed as the *human identity*, is the notion that all humans can find a commonality in being human, if nothing more. All three of these dimensions intertwine to develop many identities, some being marginalized and some oppressed. Those historically marginalized and oppressed identities have recently been strengthening their contestation of the marginalization experienced due to their particular identity (Parekh 2008).

With the dominance of human rights as moral norms since WWII, these identities have been strengthened in their articulation of the outright violations and otherwise non-protection they are offered by common human rights understandings. They then demand not only equal civil, political, economic, social and cultural rights, but also equal respect and public legitimacy or recognition for their marginalized identities. This comes from adding their experiences and visions into human rights conceptualizations.

Both the global Indigenous identity and global peasant identity have found advantages in utilizing human rights to express the marginalization and oppression experienced through their identities. These advantages include: the use of human rights to redefine the boundaries between what is just and unjust; the ability to frame claims that integrate multiple ideologies; and the ability to share and articulate claims among divergent political and cultural references and with those who belong to different geographical contexts (Claeys 2013).

For both of these emerging human rights actors, human rights have provided a common language. This language offers politically, culturally and economically differing groups and Peoples from around the world a meaningful form of engaging with each other and promoting common understandings and visions of how their human dignity, based in their identities, is not protected. They are also defining what is needed for it to be protected. These identities have engaged in redefining the conceptualizations of human rights issues. That same engagement with human rights has worked at strengthening the movements in their identities (Claeys 2013).

The international movements based upon the identities of Indigenous and of peasant can represent promotion of re-conceptualizations of human rights in numerous manners, this paper will focus on two. The first is in utilizing the identity as fueled by contentious and deeply held

feelings about what is of value in life, differing from dominant societies values. This will be represented in the Indigenous identity through the promotion of a redefinition of environmental connections with human rights, as well as in the peasant identity and the promotion of seeds as a human rights issue. The second manner in which international movements based on identity can promote a re-conceptualization of human rights issues is by focusing on their means as the ends. In this regard, they focus on the present wherein they practice the future social changes they seek, and their organizational means are valued as ends in themselves. This will be examined using the Indigenous Ogoni Peoples' struggle for self-determination through political autonomy within the state of Nigeria, as well as the landless peasants in Brazil, and their occupation of unutilized farmlands in order to force the agrarian reforms they envision as a protection of their human rights (Kenny 2004).

These processes of emerging identities as human rights actors, identities which are constantly in flux, while having grown in strength, are not unique to current times. Emerging groups in the past also saw themselves as bearers of a new vision of human possibility and invoked the language of identity (Donnelly 2003 & Ishay 2004).

Historical Examination of Human Rights Identities

This section will briefly look at the historical development of human rights as one of emerging actors becoming engaged with human rights. The 'three generations' of human rights will be discussed as well as women's rights as human rights. The focus will be on the identity of the actors as a driving force for the expansion of human rights conceptualizations.

First Generation Rights

The Renaissance and protestant enlightenment at the end of Europe's Middle Ages opened up room for humanist thought. This shifted Christian thought to focus more on freedom of religion and freedom of opinion. At the same time, feudal authoritarianism and the divine right of kings gave way to natural and individual rights discourse.

As mercantilist expansion replaced the feudal system a growing and autonomous middle class was able to reach new levels of wealth. This emerging class of white, propertied males filled the spaces in-between the nobility, the clergy, and the rural and urban working classes. The rights developed in this period were conceived of by this emerging class identity, and focused on rights to life, religion, property, and others. However, as the rights were conceived of by a particular identity, they were only meant to protect this particular identity, leaving out non-propertied workers, peasants, Indigenous Peoples, women, Jews, and others (Ishay 2004).

Second Generation Rights

During the industrial revolution, more and more laborers migrated from the countryside to the industrial city-centers. This allowed for better communication with each other and for the articulation of the failure of the middle class' conceptualization of rights in offering them meaningful protection in their identity as worker. They began to propose a more materialist understanding of rights, sensitive to economic forces, historical change, and class conflicts.

The gap between the rich and the working class had grown so wide in the industrial 19th century that conceptualizations of human rights were in need of being expanded upon. The socialist

thinkers of this time had much success promoting the abolishment of slavery and with enfranchising property-less males. The rights focused on through the identity of worker in this time are often referred to as economic and social rights (Ishay 2004).

Third Generation Rights

Since the wave of decolonization that occurred in the 1950s, 1960s and 1970s, an emerging 'third generation' of human rights has been developing. As the newly Western-educated people from the former colonies were able to articulate their visions and needs, new conceptualizations of human rights began to develop. Collectively held rights such as that of self-determination, healthy environments, and cultural heritage, among others, sometimes referred to as 'solidarity rights' were becoming articulated. When the former colonized, subjugated, or people identified as 'third world' began to articulate their vision of human dignity and those things needed to achieve their full human potential, it was clear that a renegotiation of human rights and an expansion of rights holding identities was underway (Ishay 2004; Donnelly 2003).

Women's Human Rights

As those white propertied men who first advanced the cause of human rights most feared the violations of their civil and political rights in the public sphere, this area of violation has been privileged in human rights work. The private sphere, where women dominantly experience violations, has been more subsidiary regarding human rights promotion. Beginning their conceptualization of human rights from female life experiences, women, however, have been able to examine and broaden definitions of human rights violations into the private sphere.

Women had been advocating for human rights to include their life experiences and the affronts to their dignity through the identity of being a woman since the beginning of human rights notions, especially during the French Revolution (Ishay 2004). However, other than gaining the right to vote in most places, they remained on the margins of human rights work. As women strengthened their leadership roles in the latter part of the 20th century, especially regarding the redefining of social concepts and global policy issues, they were able to move 'women's rights' from the margins and into the center of 'women's human rights' (Peters & Wolper 1995).

These well-known foundational and additional conceptualizations of human rights show the political struggle of the last three centuries can be viewed as having progressively expanded the recognized subjects of human rights. The white, Christian, propertied males of the enlightenment era have found the same arguments they used against aristocratic privilege used against them by members of new social identities seeking full participation in public and private life (Donnelly 2003). What constitutes human rights is therefore expanded upon along with the actors involved in negotiations and renegotiations of human rights conceptualizations.

Emerging political identities as human rights actors have proliferated since the end of the Cold War. The politics of identity has recently become more forceful. The next section will look into two of these identities, that of Indigenous and of peasant, to see the new conceptualizations of human rights being developed with these identities.

Indigenous Peoples

Sources of Identity

As the expansion of colonial settlements progressed throughout the globe from the 16th century onward, the people who were already inhabiting the lands being claimed by the Europeans became known as Indigenous, native or Aboriginal. These designations and historical experiences have continued into today. In the contemporary world, Indigenous Peoples typically experience conditions of harsh disadvantage relative to others within the state constructed around them. Indigenous Peoples have been deprived of vast landholdings and access to life-sustaining resources, and they have suffered historical forces that actively suppressed their political and cultural institutions (Anaya 2004).

In the last decades of the 20th century, groups identified as 'Indigenous' became important actors concerned with the advancement of international human rights. Widely differing peoples from all around the world began to claim pride in their Indigenous identity. Disparate peoples such as the Maori of New Zealand, the Saami of Northern Europe, the Navajo of the American Southwest, groups that seemingly have little in common regarding social organization, economic systems, and cultural institutions, have joined together, with a shared identity, in advancing human rights (Neizen 2003).

While there is no standard definition of 'Indigenous', the seminal 1987 UN report by Jose Martinez Cobo has been used as one of the most authoritative in highlighting the characteristics of the identity:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of society now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems (Anaya 2004).

What is found when looking at the things that have given Indigenous Peoples around the world their common and shared identity are patterns that emerge from the logic of conquest and colonialism. As a constructed, shaped and lived identity, Indigenousness is based in the context of both earlier and contemporary forms of colonialism. It is this place-based and oppositional struggle against further dispossession by foreign peoples that most fundamentally distinguishes Indigenous Peoples from other peoples of the world. The struggle to survive as distinct peoples is shared by all Indigenous Peoples. Strengthening their unique heritages, attachments to their homelands, and ways of life is central to Indigenous conceptualizations of human rights (Alfred & Corntassel 2005).

In looking at Indigenous identity it is important to consider that Indigenous cultures and identities had been growing, adapting, and changing prior to contact with colonial powers and have continued afterwards. It is mainly for this reason that a solid definition has been avoided. What constitutes 'Indigenous' must not be reified as part of an ahistorical assumption, excluding social transformations and change inherent in all human societies.

With widely differing histories, geographies, methods of subsistence, social structures and political organizations, the similarities these groups have found among themselves around the

world are based largely on the relationship with the state that was created on and around their territories. That relationship being one which has caused marginalization, poverty, oppression, loss of land and culture, and numerous human rights violations (Neizen 2003). To gain understanding of the redefinitions of human rights being promoted by the Indigenous identity, this paper will now turn to look at environmental rights issues as well as the expansion of the meaning of the right of self-determination.

Indigenous Peoples Advancing Notions of Environmental Rights

Indigenous Peoples' relationship to their natural environment has strengthened their struggles over its preservation. Their conception of environmental rights focuses on demands for equity, recognition, participation, and other capabilities into a concern for the basic functioning of nature, culture, and often the Indigenous communities themselves (Schlosberg & Carruthers 2011). This conceptualization emphasizes the unique relationship common to Indigenous Peoples and their surrounding natural environment. A relationship made up of sacred sites, cultural integrity and continuity, and the defense of the very existence of the Indigenous Peoples. They are tying their struggles for human rights expansion directly to resources, lands, and environmental claims (Dhali 2008).

Indigenous visions for the use of natural resources are frequently in opposition to that of the dominant societies. These visions held by Indigenous Peoples signify their differing but deeply held outlook about what is of value in life. The Indigenous focus on protecting and conserving environmental resources is often tied to cultural and religious practices, making the resource an important and frequently an essential piece of the historically marginalized Indigenous identity. This frames the protection of the natural resource virtually the same as to the protection of Indigenous rights.

A number of struggles in human rights protection experienced by Indigenous Peoples is of the destruction of their surrounding, and often, sacred environments. In Northern Arizona in the United States, thirteen tribal nations are struggling against the desecration of their sacred mountain from the use of reclaimed sewage water to expand a ski resort. The Ogoni people of the Niger Delta region of Nigeria have, for decades, resisted the destruction of their farmlands by oil companies. Protecting the forest homes which have sustained their livelihoods and culture for centuries, the Guarani-Kaiowa of the Chaco region of South America have put forth great struggles against the encroachment of ranchers and loggers.

This section will focus on the successful case of the Maori of New Zealand in attaining personhood status for their sacred Whanganui River. This case is both unique in its existence and represents attempts at protecting the Indigenous Peoples' identity according to the re-conceptualization promoted by their identity. The agreement between the Maori and the New Zealand government, establishing the personhood of the river, is the result of over a hundred years of advocacy by the Whanganui iwi, an indigenous community with a long history of reliance on the river and its bountiful natural resources (Fairbrother 2012). The agreement recognizes the river and all its tributaries as a single entity, Te Awa Tupua, and makes it a legal entity with rights. This is a historical moment for the respect of an Indigenous Peoples whose identity was so oppressed that parents were forced to make the decision to speak only English to their children in response to trauma suffered in their own childhood.

When the environment and natural resources (such as a river) are involved, Indigenous worldviews are often in direct conflict with non-Indigenous notions of property ownership. This agreement, then, is one that has defined a natural resource according to the worldview of the Maori. The value of the river to the Whanganui iwi is a deeply held piece of their identity and way of life. As described by Niko Tangaroa, a late Maori elder, the Whanganui iwi people have an interdependent relationship with the river. “The river and the land and its people are inseparable. And so if one is affected the other is affected also. The river is the heartbeat, the pulse of the people... If the river dies, we die as a people” (Kennedy 2012). To protect the human rights of Indigenous Peoples, their visions and conceptualizations of the environment must become integral to that protection.

The 1840 Treaty of Waitangi was the beginning of formal relationships between the Maori Chiefs and the British Crown, and exemplifies the self-determining nature of the Maori. A duty on the Crown to protect the Maori property rights remains central to the functioning of the treaty. The agreement giving personhood to the river establishes that the Crown will appoint one guardian and the Whanganui iwi will appoint one guardian, and that both guardians will act together to protect the river. In this sense, protecting the human rights of the Indigenous Maori of New Zealand means that both the Whanganui iwi and the Crown have the responsibility to promote and secure the river as more than a natural resource. It is to be promoted and protected in its spiritual and cultural significance as well as in the physical and ecological importance associated with the Indigenous relationship to the river. Noted by Che Wilson, descendent of Ngāti Rangi, one of the tribes associated with the Whanganui confederation: “the recognition of the river as its own legal entity goes a long way to us as descendents of the river in ensuring that the protection of the river is upheld and its sanctity is maintained (Kennedy 2012). While lacking full protection, this does affirm the right of the Maori to self-determination regarding their natural environment.

The New Zealand Minister of Treaty for Waitangi Negotiations, Christopher Finlayson, recognized the historic nature of the agreement:

Whanganui River iwi have sought to protect the river and have their interests acknowledged by the Crown through the legal system since 1873. They pursued this objective in one of New Zealand’s longest running court cases. Today’s agreement which recognizes the status of the river as Te Awa Tupua (an integrated, living whole) and the inextricable relationship of iwi with the river is a major step towards the resolution of the historical grievances of Whanganui iwi and is important nationally (Shuttleworth 2012).

Through their Indigenous identity, the Maori of New Zealand have successfully contributed to the renegotiation of what constitutes a human right. Protection of the environment and the natural resources therein has new meaning in international human rights understandings, especially when considering the protection of the rights of the Indigenous Peoples as self-determining peoples.

Indigenous Peoples Re-conceptualizing the Right of Self-Determination

No discussion of the rights of Indigenous Peoples under international law is whole without discussing the topic of self-determination (Anaya 2004). Indigenous Peoples have repeatedly articulated their demands in terms of self-determination, and it is a principle of the highest order within the contemporary international system.

As outlined in both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* under a common first article, self-determination means:

1. *All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*
2. *All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*

The denial of a right to freely determine their political status and make decisions about their own development has been expressed as of immediate concern to Indigenous Peoples all over the world. It is one on which many other rights depends, especially those relating to land, subsistence, healthcare, and education (Neizen 2003).

With its inherent tension with the sanctity of the state, the legal principle of self-determination has been restricted in practice. Self-determination has historically been interpreted with the *Uti Possidetis* principle, which prescribes the preservation of the territory demarcated under colonial rule. The people living in the territories marked out by European colonizers as different colonies could become a self-governing entity, but that was the limit of the right of self-determination (Neizen 2003; Ezetah 1997)).

However, as expressed by almost all Indigenous Peoples, attaining independent statehood is not their goal. Each Indigenous nation has its own way of articulating and asserting self-determination (Alfred & Cornassel 2005). This became a sticking point when the *Declaration on the Rights of Indigenous Peoples* was being negotiated at the United Nations. However, after much debate and discussion, it became more clearly understood that Indigenous Peoples did in fact constitute Peoples and therefore could not be denied the right, but mainly did not seek independent statehood (Anaya 2009). Instead Indigenous Peoples articulated their own visions for this right, many of these visions included political autonomy within the nation-state as a protection of Indigenous self-determination.

The notion of autonomy has become immensely important to the global Indigenous movement regarding the protection of the right of self-determination. Despite suffering from centuries of oppression and marginalization, many Indigenous Peoples retained *de facto* or even *de jure*, where treaties were involved, their own institutions of autonomous governance. Sometimes this occurred because of the state government's disregard or lack of concern over the Indigenous People, and sometimes it occurred in direct opposition to government policies (Anaya 2009). While Indigenous Peoples have retained their autonomous institutions *de facto* or *de jure*, they articulate the right to develop autonomous governance systems to meet their current needs of ongoing self-determination.

This paper will now turn to examine the Ogoni of the Niger Delta region of Nigeria. The Ogoni have chosen to seek out and build their own autonomous institutions while remaining a part of the colonial boundaries of Nigeria. Without acceptance from the federal government of Nigeria,

the Ogoni have proceeded to practice their vision for the protection of their right to self-determination, using the means as the ends. Their struggle promotes the Indigenous conceptualization that perhaps international human rights law should expand self-determination rights to include, among other visions, loose federation rights based on ethno-cultural and Indigenous autonomy. Indigenous self-determination in Africa is highly contentious; however, the Ogoni represent a strong attempt to live out the defined and redefined human right of self-determination.

The Ogoni are a distinctive people, numbering around 850,000. They have a distinct culture, language, and history, and have traditional religious and political systems that differ even from their closest neighbors. Prior to British colonialism they had never been subjugated or conquered by another people. After “decolonization” into the state of Nigeria, the Ogoni continued to be treated as a conquered and subjugated people (Saro-Wiwa 2005). They are one of many ethnic groups in Nigeria that have passionately defended their traditional political structures against the spread of Western civilization (Ezetah 1997)

In 1990 the Movement for the Survival of the Ogoni People (MOSOP) crafted its own Bill of Rights and presented this document to the Government and people of Nigeria. The Ogoni Bill of Rights called for political autonomy of the Ogoni, in order to ensure a fair proportion of Ogoni economic resources are used for Ogoni development, and that the Ogoni gain adequate representation in all of the institutions of Nigeria.

Still waiting for a response from the government, the Ogoni have gone ahead and initiated the process of building autonomy. In 2012, a referendum in Ogoniland in favor of establishing an autonomous Ogoni Central Indigenous Authority passed. As supported by Article 5 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), this does not mean the Ogoni are looking to secede from Nigeria. MOSOP leaders have even stated that: “political autonomy will not deprive the Ogoni people of the right to participate in the affairs of Nigeria” (MOSOP 2012).

On February 3, 2012, the President of MOSOP announced the inauguration of the Ogoni Human Rights Watch Bureau. “The Human Rights Watch Bureau is a significant aspect of continual effort to structure and build institutions for the Ogoni Central Indigenous Authority” (MOSOP 2012). MOSOP has urged all domestic and international institutions interested in human rights support in Ogoniland to work with the Ogoni Human Rights Watch Bureau as the legitimate grassroots body in Ogoniland.

The Ogoni Environmental Protection Agency was established in December of 2011. Along with this, MOSOP has also established education and health departments in Ogoniland, to build a framework to attract direct cooperation with public agencies and NGO’s worldwide. These efforts are to boost the odds of helping the Ogoni people on the ground to be directly involved in their own affairs (MOSOP 2012).

The Ogoni, in utilizing their Indigenous identity and the re-conceptualizations of human rights held by that identity, have pushed the meaning of self-determination according to their own vision and articulation. They do not seek independent statehood, but to claim the right to govern themselves, make decisions over the treatment of their territories and not be controlled by outside groups. This is encouraging the expansion of the meaning of colonial or alien domination to include fictional national unity, like that in Nigeria. Indigenous visions for self-determination,

like that of the Ogoni, have challenged and forced a renegotiation of the conceptualization of the right. They have established their own autonomy; exploring the possibilities and adding their vision of this human right of self-determination which seems to, even currently, remain in a constant process of renegotiation and redefinition (Ezetah 1997).

The identity of Indigenous Peoples as human rights actors have shown to be engaging in redefining human rights issues. The Maori have successfully altered which worldview is utilized in protecting their natural resources, thus redefining the issues concerning the environment and its connections to their human rights. The Ogoni remain in a struggle to protect their vision for the implementation of the right of self-determination, however, have strongly contributed to the negotiations in its re-conceptualization.

The peasant identity is seemingly following a similar trajectory as the Indigenous movement in promoting its conceptualizations of human rights issues. The Indigenous identity, as an international human rights actor, seems to have more experience in the engagement with human rights than the global peasant movement. However, this paper will now turn to the peasant identity to see the commonalities and differences regarding an emerging actor contributing to redefinitions of human rights issues.

Peasants

Sources of Identity

Hunger and poverty are still predominantly a problem in rural areas, and amongst the rural peasant population. This includes small-scale farmers, small landholders, landless workers, fisher-folk, pastoralist, and hunters and gatherers. All of these groups have identified and have been identified as peasants and they suffer disproportionately from hunger and poverty. According to a report by Olivier de Schutter, the *United Nations Special Rapporteur on the right to food*, 50 percent of the worlds hungry are smallholder farmers who depend at least partially on growing food for their livelihoods. Another 20 percent of the world's hungry are landless. This creates the ironic global phenomena that people suffer most acutely from hunger and malnutrition where food is produced (de Schutter 2012) .

Marx predicted that with agrarian capitalism peasants would simply disappear, and proponents of neoliberal globalization expect the same thing (La Via Campesina 2009). However, peasants are not vanishing out of the world. In fact, peasants have strengthened their pride in the identity and they are an emerging international actor in human rights re-conceptualizations. A process of 're-peasantization' is even being articulated by the global movement of peasants, La Via Campesina. Rural movements around the world are proudly embracing the identity of peasant to define themselves and their common situations of marginalization and oppression (Desmarais 2008).

While the question of how to define peasants has a long and complicated history, a common structural subordination to non-peasants is highlighted in the majority of attempts at a definition. With the rise, since the 1990s, of La Via Campesina, peasants have a heightened global political profile and the 'peasant' label has new found contemporary resonance. The international movement has cast a wide net regarding the definition of peasant, focusing on all those that fit the umbrella definition 'people of the land'. As with the global Indigenous Peoples movement, the peasant movement has focused on highlighting common concerns among varied groups around the world, these concerns have included: economic vulnerability in globalizing

commodities markets; heightened risks resulting from climate change; and a structural lack of power in society (Edelman 2013).

As defined in the *Draft International Declaration on Peasants Rights*, discussed later, peasants are men and women who have direct and special relationships with the land and nature through the production of food and agriculture. They work the lands themselves, relying on family and other small-scale forms of organizing labor. The term peasant, as stated in Article 1.3 of the Declaration can also apply to landless people who otherwise would fit into the definition (Zeigler 2011). The identity of the peasant class has transcended national and physical boundaries, to become a global identity. As a human rights actor, this global identity struggles for its own survival. Oppressive systems exist today as they have historically existed and are working to take away peasant livelihoods, cultures, histories and even existence.

As the production, distribution, preparation, consumption and celebration of food are all fundamental to rural cultures, peasant identity reflects a deep attachment to culture. As with the Indigenous identity, it is a place-based identity, it has found common types of cultural attachment to food as well as common types of marginalization and oppression all around the world (Shiva 2005). A theme throughout the struggles of the international peasant movement is that of the right to food and the protection of this right through the principle of food sovereignty. Food sovereignty was defined at the World Food Summit in 1996, by La Via Campesina, as:

The right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems... Food sovereignty prioritizes local and national economies and markets and empowers peasant and family farmer-driven agriculture, artisanal-fishing, pastoralist-led grazing, and food production, distribution and consumption based on environmental, social and economic sustainability... It ensures that the rights to use and manage lands, territories, waters, seeds, livestock and biodiversity are in the hands of those of us who produce food (La Via Campesina 2006).

In essence, the concept of food sovereignty places the control of the process to protect and promote the human right to food in the hands of communities, families, and all those that work the lands to produce food. Both re-conceptualizations of human rights by the peasant identity, that of a right to seeds and a right to agrarian reform, should be examined with this principle in mind.

Human Rights and Seed Sovereignty

Seeds are an integral component to peasant culture, and are often considered a sacred resource. At La Via Campesina international gatherings it is a common practice for representatives to bring seeds from their homelands to exchange with their counterparts from afar. Dr. Vandana Shiva states in her book *Stolen Harvest: The Hijacking of the Global Food Supply* “the seed, for the farmer, is not merely the source of future plants and food, it is the storage place of culture and history. Seed is the first link in the food chain. Seed is the ultimate symbol of food security” (Shiva 2000). Selected and reproduced by family farmers in their fields, peasant seeds adapt on their own to the diversity and variability of the soil, climate, and farming practices, as well as to local food and cultural needs. Their diversity and variability are key to this local adaptation (Shiva 2005).

However, the current and developing intellectual property rights regime is usurping traditional knowledge of seeds and monopolizing their trade by claiming them as private property. Claiming patents on Basmati rice, soybean, mustard, and many more seeds that have been developed over centuries, private companies are increasingly in control of seeds, taking the sovereignty away from food producers in determining their food systems. Peasants that have inherited the knowledge of these seeds are not allowed to trade them or use them without permission or purchasing them. Centuries of collective innovation by peasants are being grabbed by modern corporations (Shiva 2000). The international peasant movement has articulated the defense of a right to seeds through a contentious yet deeply held value on the use of seeds.

In the *Draft Declaration on the Rights of Peasants*, La Via Campesina has promoted a right to seed in Article 5, Right to seeds and traditional agricultural knowledge and practice:

- 1. Peasants (women and men) have the right to determine the varieties of the seeds they want to plant*
- 2. Peasants(women and men) have the right to reject varieties of the plant which they consider to be dangerous economically, ecologically, and culturally...*
- 8. Peasants (women and men) have the right to grow and develop their peasants varieties and to exchange, to give or to sell their seeds*

Peasant farmers in India have strongly articulated this issue as a human rights issue. Conceiving of the privatization of seeds by corporations as a violation of a right to food, India's peasants have helped place this issue at the international level as a discussion regarding re-conceptualizing what a human right to food means and what a violation of this right looks like. Through the manner in which seeds are valued by the peasant identity, the peasant movement contends that seeds are in fact a human rights issue. The organization Navdanya, has been instrumental on this issue in India, and will be examined further to understand the issue as a human rights issue. Navdanya is led by Dr. Vandana Shiva, a leading thinker articulating the conceptualization of seeds as a human rights issue.

Navdanya has its own seed bank and organic farm spread over an area of 45 acres in Uttarakhand, northern India. The movement has so far successfully conserved more than 5000 crop varieties including over 3000 varieties of rice, 150 varieties of wheat, 150 varieties of kidney beans, 15 varieties of millets and several varieties of pulses, vegetable, medicinal plants, etc. (Navdanya 2013). This peasant organization has also struggled against the privatization of traditional seed practices in India by private companies.

Basmati rice has been grown in India for centuries. Generations of observation, experimentation, and selection by India's peasant farmers has resulted in numerous varieties of Basmati rice to meet various ecological conditions, cooking needs, and tastes. In fact, there are 27 distinct varieties. Now, with a recent patent awarded to Texas-based RiceTec, Inc. on Basmati rice lines and strains, the Indian peasants are threatened with having what they have developed over generations stolen from them (Shiva 2000).

Through four years of campaigning, Navdanya and other peasant organizations were able to overturn most of RiceTec's patent claims on Basmati rice. Through a seed conservation program, Navdanya has also been able to save, collect and distribute 14 of the Basmati varieties. Seed, for

the Navdanya conservation initiative, represents the accumulation over centuries of people's knowledge and by being a reflection of the options available to them; it represents their choice and ability to determine their own food systems (Shiva 2005).

As articulated by the peasant movement, a human right to seeds is the birth right of every peasant and food producer. "Peasants' rights to save, exchange, evolve, breed, and sell seed is at the heart of a human right to seed for the protection of the human right to food. This human right is threatened by patents on seed, which create seed monopolies and make it illegal for farmers to save and exchange seed as traditionally practiced" (Navdanya 2013). United Nations Special Rapporteur on the right to food has stated:

The professionalization of breeding and its separation from farming leads to the emergence of a commercial seed system, alongside the farmers' seed systems through which farmers traditionally save, exchange and sell seeds, often informally. This shift has led to grant temporary monopoly privileges to plant breeders and patent-holders through the tools of intellectual property. The farmers' seed systems may be put in jeopardy, although most farmers in developing countries still rely on such systems, which, for them, are a source of economic independence and resilience in the face of threats such as pests, diseases or climate change (de Schutter 2009).

Patents such as that on Basmati rice, have been articulated as a human rights violation as robbing peasants of their birthright and livelihoods. Transforming the traditional peasant practice of seed saving and sharing, which gives the ability to determine their own food systems, into a crime is being re-conceptualized as a human rights violation regarding the emerging human rights actor, the peasant.

Land Grabbing and Agrarian Reform as Human Rights Issues

A 2008 report from the non-governmental organization GRAIN titled, *Seized: The 2008 Land Grab for Food and Financial Security* may have been the beginning of the common use of the term 'land grabbing' in today's world. The term refers to the recent explosion of transnational commercial land transactions mainly around the large-scale production and export of food and bio-fuels (Lavers, 2012). Land grabbing involves amplified corporate investments in the agrarian regions of the developing world, which rests on the premise that the livelihoods of the world's peasants are not sufficiently productive enough to justify their continuing hold on lands. With this mindset, lands occupied by politically marginal communities, which are increasingly claiming the peasant identity, are described as "empty", "unoccupied", or "underutilized" instead of as the homelands of most of the world's agrarian food producers (Galaty, 2012).

The lived reality of land grabbing has been displacement of local communities, land encroachments, failure to create jobs, environmental destruction, massive transfers of land for free or next to free, as well as increased land concentration, forced evictions, negative gender effects, and land use changes to the detriment of food security, biodiversity, and the environment (Oakland Institute 2013). All of this culminates in a loss of the ability for communities and peoples to be self-determining regarding their food production and biodiversity protection.

Efforts to confront this phenomenon of land grabbing have utilized the language of human rights, especially regarding agrarian reform, in order to protect the rights of peasants to determine the food production systems on their own lands. Agrarian reform can be defined as the adaptation of

the whole system of agriculture to redistribute the agricultural land among the farmers of the country. In a report from Jean Zeigler, former *United Nations Special Rapporteur on the right to food*, it is affirmed that:

For peasants to fully realize their human rights, particularly the right to food, more attention needs to be given to agrarian reform that benefits small scale land holders and promotes security of tenure and access to land, rather than reform practices which continue to discriminate against those already vulnerable (Zeigler 2009).

The United Nations *Special Rapporteur on economic, social and cultural rights* has also stated:

It is increasingly recognized that land rights and agrarian reform are often central to the realization of human rights. The Fulfillment of various economic, social and cultural rights show a direct relationship to land, such as the right to food, the right to housing, the right to an adequate standard of living, the right to culture...and others. No question is more central to power relations within society or to issues of equality and income distribution than land (Turk 1990).

Access to farmland is a fundamental human right for peasants as grossly inequitable distribution of land is one of the most common causes of poverty in much of the world. In Guatemala, two percent of the population owns 70-75 percent of the land, leaving 90% to survive on less than 1 hectare per family. This puts rural poverty at 70.5% in Guatemala (IFAD 2013). In Ethiopia, a country known for its high poverty levels, with 85 percent of the population living in rural areas and dependent on food production for their livelihoods, two thirds of households farm on less than 0.5 hectares, insufficient to support a family. In Brazil, where two percent of the population own more than half the land, nearly a quarter of the 186 million people live below the poverty line. Considering the current phenomenon of land grabbing, statistics about rural poverty, and the development of the peasant identity as a human rights actor, the issue of agrarian reform has returned to the international agenda as a human rights issue (de Schutter 2009).

The Landless Workers Movement (MST in Portuguese) of Brazil is one of the strongest and oldest members of the global La Via Campesina movement. They have articulated the issues of agrarian reform as human rights issues and have inspired similar movements elsewhere in the world. The three main objectives of the MST are to fight for the land, to fight for land reform, and to strive for a more just and fraternal society. It is estimated that out of the 340 million hectares of arable land in Brazil, only 63 million are currently dedicated to crops. Taking advantage of a clause in the new constitution mandating the government to redistribute unused land, the MST has used disciplined civil disobedience to ensure this mandate's fulfillment by occupying uncultivated land and cultivating it to establish ownership (Vergara-Camus 2009). Using the practice of land occupation in the present to build the future they envision with agrarian reform as a human rights issue, the MST are using their means as the ends.

The MST is a mass social movement formed by rural and landless workers. It came into existence through a process of occupying large estates. "For more than two decades, the movement has led more than 2,500 land occupations, with about 370,000 families - families that today settled on 7.5 million hectares of land that they won as a result of the occupations" (Friends of the MST 2013). In the communities formed out of the occupations, MST members run their own education systems, resolve conflicts using restorative justice, and develop their

own media and cultural empowerment programs. They also experiment with participatory democracy and self-governance (Field & Bell 2013).

Brazil suffers from extreme unequal land ownership. Just two percent of land owners own 56 percent of land in the country. The strong peasant mobilizations of the MST are explained as struggles over agrarian reform for the protection of the right to land in order to protect the right to food, along with other human rights. João Pedro Stédile, founder and coordinator of the MST has stated:

In the last ten years, the concentration of land ownership has increased. And even worse, concentrated in the hands of businesses outside of agriculture and of foreign capital... deluded by the success of agribusiness that produces, makes money, but concentrates wealth and land and increases poverty in the countryside (Stedile 2013).

The MST articulates the struggle for agrarian reform and access to land as a prerequisite to realizing many other rights of the landless peasant. This movement not only exemplifies the re-conceptualization of human right issues, but creatively shows the development of new tactics in pressuring for the acceptance of those conceptualizations as legitimate. Agrarian Reform is back on the international agenda, this time as a human rights issue, because rural populations and movements like the MST have put it there through the peasant identity (de Schutter 2011).

Demanding that the impacts of privatization designs take into consideration the emerging human rights actor, the peasant, the issue of seeds has become, and looks to continue to be, a human rights issue. Peasants, especially those which are landless have also articulated a redefinition of land rights centered on agrarian reform in order to protect the human rights of the peasant identity. While following a similar trajectory as the Indigenous movement, the peasant movement has taken its own path, further expanding the understanding of emerging actors in redefining human rights issues.

United Nations Engagement

A considerably important acknowledgement of successfully re-conceptualizing human rights issues is that of the creation of international legal instruments and relevant human rights mechanisms at the United Nations. This acts as a symbol (as state practice may remain questionable) that the international community has accepted that a particular identity should be offered meaningful conceptualizations of human rights. Both of these identities have engaged in this process with some success.

Indigenous Peoples

The global Indigenous Peoples rights movement engaged with the United Nations early on, forming a strong presence at international meetings. As the movement articulated it's own vision for human rights for adequate protection of their identity as Indigenous, new instruments and mechanisms were formed at the international level to build on this re-conceptualization. The culmination of this was the 2007 adoption of the *United Nations Declaration on the Rights of Indigenous Peoples*. This Declaration was the fruition of over two decades of organizing and negotiating (Anaya 2009).

The very existence of the Declaration represents recognition of the historical and ongoing denial of the right of Indigenous peoples to self-determination and to decide activities within their natural surroundings. As already mentioned, Article 3 explicitly states the right of self-determination as in line with other human rights treaties. Article 26 also provides Indigenous Peoples with a:

right to own, use, develop and control the lands, territories, resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Prior to this Declaration the International Labor Organization adopted *Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries*, a multilateral treaty which opened in 1989. While the convention has only been ratified by about 21 states, it is a binding treaty and has been used in a number of court decisions regarding Indigenous Peoples rights even when the state has not ratified it (Anaya 2009).

Three other important mechanisms have been developed at the UN in order to further strengthen the new conceptualizations of the rights of Indigenous Peoples internationally. *The Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples* was authorized by the Commission on Human Rights (now the Human Rights Council) in 2001. The Special Rapporteur was mandated to “gather, request, receive and exchange information and communications with all relevant sources” concerning human rights violations against Indigenous Peoples themselves and their communities and organizations, as well as to formulate recommendations and proposals to prevent and remedy such violations (Anaya 2009).

A second mechanism of the Human Rights Council (Council) is the Expert Mechanism on the Rights of Indigenous Peoples. This is a five member group of experts created in 2007 with a mandate to “provide the Council with thematic expertise on the rights of Indigenous Peoples in a manner and form requested by the Council”. In addition to these, the Economic and Social Council hosts the advisory body, the Permanent Forum on Indigenous Issues, with a mandate to discuss Indigenous issues related to economic and social development, culture, the environment, education, health and human rights (Anaya 2009).

Peasants

As a more recently emerging actor in the international human rights regime, the identity of peasant does not have the number of successes regarding the creation of new instruments and mechanisms at the United Nations. However, there are some worthy of investigating. La Via Campesina, along with other organizations concerned with peasants’ rights have been pushing for the adoption of their own declaration. In 2012, the “*Final study on the advancement of the rights of peasants and other people working in rural areas*” was presented to the Human Rights Council and was unanimously approved. This document contains the preliminary text of the *International Declaration of Peasants Rights*. Unfortunately for the pan-peasant movement, the final adoption of the declaration was blocked in 2013, and efforts will need to continue for its adoption. The declaration, in its current draft focuses heavily on addressing the right to food and seeds as well as land reform issues (La Via Campesina 2011).

The United Nations *Special Rapporteur on the right to food* has also been essential in articulating the needs of the peasant identity in order for their rights to be adequately protected. The Special Rapporteur was authorized in 2000 with a mandate to:

promote the full realization of the right to food and the adoption of measures at the national, regional and international levels for the realization of the right of everyone to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities; as well as to formulate recommendations and proposals to prevent and remedy such violations (de Schutter 2009).

The Special Rapporteur has focused on issues of seed sovereignty, land issues, agro-ecology as well as climate change and biofuels, regarding their impacts on the right to food, all of these issues central to the peasant movement.

As can be seen, both identities have utilized the international human rights machinery to advance the conceptualizations they have for human rights. Both with some success and some more struggles anticipated. The recognition by United Nations bodies is that these identities, as human rights actors, have legitimately renegotiated what it means to protect their human rights.

Conclusion

Human rights conceptualizations need to be challenged when they do not recognize the continually changing nature of the individuals and groups meant to be protected. The human rights principles created by the particular plights of earlier groups and individuals have been constantly challenged in order to offer more and more identities meaningful protection. The marginalized and oppressed groups claiming the identities of Indigenous and of peasant have successfully transformed their issues and concerns into international human rights issues and concerns. These two identities exemplify the ability of historically marginalized and oppressed groups to emerge as human rights actors and demand that their experiences and perspectives be included in what constitutes human rights issues, demonstrating the changing nature of those involved in human rights conceptualizations.

Additional ideas of human dignity from new political identities and human rights actors can be exemplified by the recent history of the Indigenous and peasant movements. They have renegotiated what is needed for them to live a life of human dignity and achieve their full human potential in their identities. What constitutes human rights has been expanded upon, altered, challenged and strengthened along with the human rights actors which are working to renegotiate conceptualizations of human rights.

Similar with both identities is an articulation and focus on human rights regarding the protection of self-determination and sovereignty. The Indigenous Peoples movement has overtly discussed their conceptualizations of self-determination, as differing from widely held conceptualizations, and as central to the protection of their human rights and identity. It has also forced a renegotiation on environmental rights as essential for the human rights of Indigenous Peoples. This has been done in the language of self-determination as well. Rights to consent to what happens in their territory, of placing natural resources within the worldview of Indigenous Peoples, and of control over protection of the environment and natural resources are all crucial to the protection of Indigenous self-determination.

The rights to seed sovereignty and to control the land in which one or a group works to produce food are also articulations of protection from outside forces encroaching on the abilities of individuals and groups to be self-determining. The peasant movement, while not overtly using the language of self-determination, is struggling for the rights of the 'people of the land' to not be restricted by outside forces, to choose their own food production, and to control the land on which they work. All of these fit within the wider framework of self-determination. This may suggest that the already contentious right of self-determination will continually need to evolve. As more identities emerge as human rights actors this right could become more central in articulating human rights engagement with a politics of identity.

Developing the identities at the global level the Indigenous and peasant movements have been able to demand their vision be included and formalized in international instruments and mechanisms mandated in promoting and protecting their conceptualizations of human rights. Continuing the historical development of emerging human rights actors renegotiating the things that constitute human rights, and which identities can claim human rights, the Indigenous and peasant movements give further understanding to the current as well as the historical phenomenon of the identity politics of human rights development.

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